

Message Text

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ACTION L-02

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TAGS: UNGA PFOR

SUBJ: UNGA LEGAL COMITE: DEFINITION OF AGGRESSION

1. SUMMARY: BROMS INFORMAL GROUP HAD MEETINGS LATE PM OCT 24 AND AM OCT 25. OCT 24, PERU EXPLAINED WORKING PAPER (WP) COSPONSORS STRONGLY FAVORED INCLUSION OF AN ARTICLE 3(D) CLARIFICATION IN TEXT. USSR WAS MOST ADAMANT IN OPPOSING ANY ADDITION TO TEXT. VARIATIONS (AUSTRALIA AND CANADA) TO PERU WP LANGUAGE WERE PROPOSED, WITH QUESTION OF LOCATION LEFT OPEN. AT AM MEETING OCT 25, PERU SAID WP COSPONSORS (NOW ABOUT 14 IN NUMBER) WOULD ACCEPT CANADIAN TEXT AS FOOTNOTE RPT FOOTNOTE IN TEXT OF DEFINITION. CHINESE MADE POLEMIC STATEMENT IN SUPPORT OF PERU, AND US AND USSR RESPONDED TO PERU AND PHILIPPINE QUESTION WHY PROPOSAL INIMICAL TO SUCCESSFUL CONCLUSION OF AGGRESSION ITEM. END SUMMARY.

2. AT MEETING LATE PM OCT 25, BROMS REQUESTED PERU EXPLAIN WORKING PAPER (WP) COSPONSORED BY PERU, ET AL. PERU, SPEAKING FOR SPONSORS (WHICH PERU SAID NOW NUMBERED 14), WAS UNCONVINCED BY THE ARGUMENT THAT THERE WAS NO LEGAL NECESSITY FOR CLARIFICATION OF ARTICLE 3(D). ALSO PERU STATED THEY WERE NOT SEEKING TO GAIN ANY LAW OF THE SEA (LOS) CONFERENCE ADVANTAGE BY MEANS OF THIS PROPOSED

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PROVISION IN THE DEFINITION OF AGGRESSION. THEY SIMPLY

DID NOT WISH TO LOSE ANY LOS INITIATIVES IN THIS EXERCISE.

3. AFTER EFFORTS BY US, USSR, UK AND JAPAN TO DISSUADE WP COSPONSORS, AUSTRALIA PROPOSED MIDDLE OF ROAD FORMULATION; NAMELY:

"NOTHING IN THE DEFINITION SHALL IMPAIR THE RIGHTS OF STATES TO UPHOLD THEIR AUTHORITY IN AREAS UNDER THEIR SOVEREIGNTY OR JURISDICTION."

4. CANADA SUGGESTED FOL FORMULATION:

"NOTHING IN THIS DEFINITION, AND IN PARTICULAR ARTICLE 3(D), SHALL BE CONSTRUED AS IN ANY WAY PREJUDICING OR DIMINISHING THE AUTHORITY OF A STATE TO EXERCISE ITS RIGHTS WITHIN THE LIMITS OF ITS NATIONAL JURISDICTION."

5. USDEL STATED AUSTRALIAN TEXT MIGHT BE WORTHWHILE BASIS FOR CONTINUED CONSIDERATION OF THIS QUESTION. USDEL STATED CANADIAN TEXT RAISED PROBLEM (A) BY REFERRING TO ARTICLE 3(D), AND, (B) IN THAT THE WORDS "THE LIMITS OF" WERE SOMETIMES TREATED AS TERMS OF ART IN ANOTHER FORUM, AND ADDED NOTHING TO DEFINITION OF AGGRESSION WHILE GIVING RISE TO UNNECESSARY IMPLICATIONS.

6. PERU FOUND AUSTRALIA TEXT TOO GENERAL, AND WAS WILLING TO CONSIDER CANADIAN TEXT WITH OTHER WP COSPONSORS. PERU STATED THAT IF CLARIFYING STATEMENT WERE GENERAL IT WOULD HAVE TO BE VERY CLOSE TO TEXT, I.E. INSERTED IN DEFINITION; IF CLARIFYING STATEMENT WERE VERY SPECIFIC IT COULD BE LESS CLOSE TO DEFINITION. LATTER APPARENTLY ONLY MEANT THE CLARIFICATION COULD BE A FOOTNOTE, NOT A STATEMENT IN THE LEGAL COMITE REPORT.

7. BROMS GROUP RECONVENE AM OCT 25 TO HEAR REPORT OF PERU CONSULTATIONS WITH WP COSPONSORS.

8. PERU STATED, IN ESSENCE, THE COSPONSORS COULD ACCEPT CANADIAN TEXT, BUT ONLY AS FOOTNOTE RPT FOOTNOTE IN DEFINITION TEXT.
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9. SEVERAL DELS EXPLAINED THAT THIS WOULD ENDANGER DELICATE COMPROMISE WORKED OUT IN SPECIAL COMITE. PHILIPPINES AND PERU PROFESSED DIFFICULTY IN UNDERSTANDING WHAT THIS DELICATE BALANCE WAS. CHINA THEN INTERVENED ON SUBSTANCE OF ITEM FOR FIRST TIEM TO FULLY SUPPORT PERU INITIATIVE. CONTINUING INTEMPERATELY, CHINA STATED (A) MANY VIEWS OF THIRD

WORLD NOT REFLECTED IN DEFINITION BECAUSE OF POSITION OF CERTAIN POWERS; (B) THERE IS NO REASON TO SUPPRESS PROPOSALS NOW; (C) WE CAN SEE SOME DELS FEAR THEIR VESTED POSITIONS WILL BE CHALLENGED--THIS IS THE REAL REASON FOR ATTEMPTING TO IMPOSE THIS DECEPTIVE CONSENSUS; AND, (D) EVERY COASTAL STATE HAS INVIOABLE RIGHT TO DETERMINE THE WIDTH OF ITS MARITIME JURISDICTION. THOUGH MEETING WAS INFORMAL, CHINA INTERVENTION WAS MADE FROM A PREPARED STATEMENT.

10. US AND USSR IN VERY SIMILAR STATEMENTS RESPONDED TO QUESTION WHY TEXT OF DEFINITION COULD NOT BE ALTERED IN SLIGHTEST. USDEL EMPHASIZED REPRESENTATIVE NATURE OF SPECIAL COMITE, HOW ALL NOT ON SPECIAL COMITE WERE ENTITLED TO CONVEY THEIR VIEWS, AND SOME DELS REJECTED SPECIFIC INVITATION TO PARTICIPATE. IT WAS NOTED THAT WE WERE REENACTING HISTORY IN THAT IN THE PAST 50 YEARS WHEN AGREEMENT ON A DEFINITION WAS ALMOST REACHED, INVARIABLY SOME DEL INSISTED HIS SPECIAL POSITION BE FULLY REFLECTED. PRESENT NEGOTIATION RISKS SAME RESULT OF THOSE ENDAVORS; NAMELY, FAILURE. USDEL CONCLUDED THAT ALL OUR PREFERENCES NOT FULLY MET IN PRESENT TEXT, BUT IF WP SPONSORS PRESSED FOR CHANGES IN TEXT, USDEL WOULD BE COMPELLED PRESS OUR PREFERRED POSITION, NOTABLY ON ARTICLES 2 AND 7. USSR DEL CONCLUDED IN LIKE VEIN STATING IT WOULD HAVE TO TABLE PROPOSALS TO ARTICLES 1, 2, 3 AND 6. WG SPONSORS WERE REQUESTED TO SHOW FOREBEARANCE, AS COASTAL STATES AND LANDLOCKED STATES, AND OTHERS, HAD DONE DURING WORK OF SPECIAL COMITE. FRANCE CONCURRED WITH REMARKS OF US AND USSR.

11. WITH MEETING SOMEWHAT LIMP AS A RESULT OF THIS EXCHANGE NEW ZEALAND (QUENTIN-BAXTER) AND CANADA(MILLER) LIMITED OFFICIAL USE

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ARGUED THAT WE HAD A WORKING BASIS WITH CANADIAN TEXT AND WE SHOULD TRY TO CAPITALIZE ON IT. NO OBJECTIONS WERE RAISED.

12. SINCE BROMS WILL LEAVE NEW YORK ON TUES OR WED (OCT 29-30) OF NEXT WEEK AND BE OUT OF TOWN ABOUT TEN (10) DAYS, QUENTIN-BAXTER WILL CARRY ON AS CHAIRMAN INFORMAL GROUP.

13. BROMS INFORMED GROUP THAT HE HAD BEEN ADVISED BY AFGHANISTAN THAT SOME SEVENTEEN (17) COUNTRIES WILL CIRCULATE FOLLOWING WORKING PAPER:

"DELETE SEMI-COLON IN ARTICLE 3(C) AND ADD FOLLOWING NEW SENTENCE:

"AS WELL AS THE BLOCKADE OF THE ROUTES OF FREE
ACCESS TO AND FROM THE SEA OF LANDLOCKED
COUNTRIES'."
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